

REPLY

The Examiner withdrew the prior indication of allowability of claims 2-8.

The Examiner rejected claims 2-8 under 35 USC §103(a) as being unpatentable over the Prior Art Figs. 11-13. The Examiner has not cited any other references. In support of the Examiner's rejection, the Examiner has indicated that it would have been an obvious matter of design choice to have a holding portion as recited in the claims, since applicant has not disclosed that having a specific holding portion solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well.

The problem in the prior art is that there is a danger that a user's fingers will come into contact with a blade and be injured. This problem is illustrated in Fig. 14 and described on pages 6 and 7 of the specification. As illustrated in Fig. 14 and described in the specification, since the index finger 29, the middle finger 30, and the third finger 31 are placed near the front end of the vegetable retainer 21, there is a risk that the tips of the fingers will project forward during cutting. As illustrated in Fig. 13, the central portion of the main body portion 22 has a very low reinforcement rib 25 height that is unable to protect a finger. Additionally, at either end of the main body portion 22 there are increased height rib 25 portions

that could hold water or vegetable fluids that could contribute to slippage of a finger resulting in possible injury. This creates a dangerous situation and increases the likelihood that the tips of the fingers may contact the blade during cutting. This is the stated problem that is to be solved with the present invention.

This stated problem is solved with the new structure of the present invention. The new structure of the present invention is safer than the prior art devices, and in particularly the prior art device illustrate in Figs. 11-14.

As illustrated in Fig. 4 of the application and described on page 13, the index finger 29 is in contact with the inner surface of the rising portion 39, and does not project from the font end of the vegetable retainer 32, so that there is no risk that the index finger 29 could come into contact with the blade. Additionally, a notch 38 is formed at either end to facilitate drainage of water or vegetable fluids so as to greatly reduce the likelihood of slippage of a finger and potential injury. Therefore, safety is improved with the structure of the present invention.

Claim 2 recites wherein the holding portion has a height above the upper surface of the retainer main body portion sufficient to prevent fingers of a cooking person from coming off of the vegetable retainer during use of the vegetable cutting

utensil, whereby the fingers of the cooking person are reliably held preventing injury in combination with a drainage notch used for drainage. This combination of an increased height holding portion and a drainage notch is not disclosed in any cited reference, and is something more than an obvious matter of design choice. The Examiner has cited no reference that discloses, let alone would suggest the recited combination. Therefore, claim 2 should once again be indicated as allowed.

Claim 3 additionally recites that the drainage notch is formed in the holding portion. No drainage notch is disclosed in the admitted Prior Art Figs. 11-14 relied upon by the Examiner. The Examiner has also not cited any reference with a drainage notch, let alone a drainage notch formed in the holding portion as recited in claim 3. Therefore, claim 3 should once again be indicated as allowed.

Claim 5 recites a pair of opposing longitudinal side rising portions with a center having a height extending from the top surface greater than the opposing ends. As indicated above, this structure solves the stated problem of possible injury to a finger due to slipping off of the vegetable retainer. The Prior Art Figs. 11-14 in no way suggest the structure recited in claim 5.

Claim 8 recites the pair of opposing curved lateral side raised portions, and the pair of opposing curved longitudinal

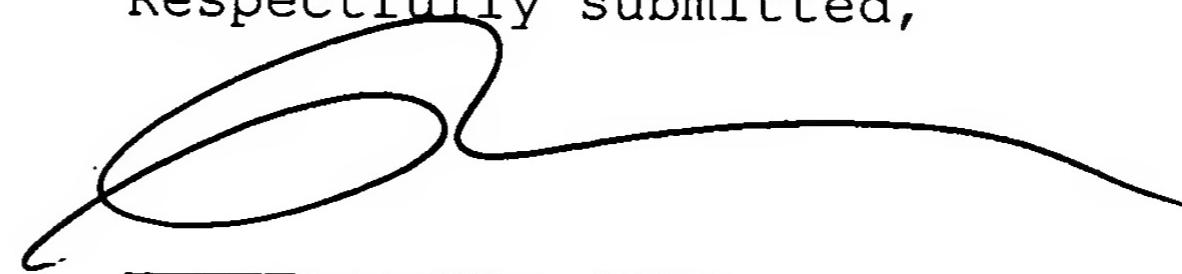
side raised portions having a height at the center that extends from the top surface greater than the opposing ends, in combination with drainage notches. As indicated above, this structure drains accumulating water or fluid and helps to prevent possible slippage of a finger from the vegetable retainer, which could result in injury.

Therefore, the vegetable retainer as recited in the claims provides an improved construction that is not disclosed, suggested, or obvious in view of the Prior Art Figs. 11-14 disclosed by the Applicant in the application. Absent any motivation in the prior art or a reasoned rational for modifying the prior art to obtain the new recited structure as claimed, the claimed invention can not be considered obvious. The Examiner has clearly failed to establish a prima facie case of obviousness.

The brief description of the drawing has been amended to correct an obvious typographical error. Drawing Fig. 14 has been labeled as Prior Art to make it consistent with previously labeled Figs. 11-13. Fig. 14 illustrates the vegetable retainer 21 illustrated in Prior Art Figs. 11-13.

Accordingly, it is respectfully requested that the Examiner reconsider the present application and indicate allowable subject matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "PAUL A. FATTIBENE".

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Amendments to the Drawing Figures

Enclosed with this Amendment and Reply is one (1) sheet of corrected Substitute drawing of Fig. 14. The Substitute drawing labels Fig. 14 as Prior Art.